



Attorney's Docket No.: 042390.P6604

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Kevin J. Lee

Application No: 09/223,472

Filed: December 30, 1998

For: ELECTROPLATING CELL BASED
UPON ROTATIONAL PLATING
SOLUTION FLOW

Examiner: W. Leader

Art Unit: 1742

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OFFICE OF PETITIONS

Director of the Technology Center TC1700
P.O. Box 1450
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PETITION TO THE COMMISSIONER UNDER 37 C.F.R. § 1.181(a)

Dear Sir:

M.P.E.P. § 1208.01 allows for petitions to the Commissioner under 37 C.F.R. § 1.181(a) to allege that an Examiner's Answer in an Appeal contains an impermissible new ground of rejection and to reopen prosecution.

FIRST-CLASS CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450 on:

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Kevin J. Lee
Application No.: 09/223,472

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In the Examiner's Answer dated March 26, 2003, at Page 8, the Examiner states as follows:

"Appellant argues that Norris does not include outlets that are at an angle other than normal to the surface of the substrate when view[ed] from the right. Merriam Webster's Collegiate Dictionary, tenth edition, defines "normal" as "perpendicular". Thus, to fall within the scope of appellant's claims, the outlets must be oriented in some direction other than perpendicular to the surface of the substrate. As explained in the grounds of rejection above, the nozzles of Norris are indeed at an angle other than normal (perpendicular) to the surface of the plate electrodes 108 and 110 which are the substrates being plated. At page 9, line 1 of the brief, appellant observes that the outlets of Norris are parallel to the plate electrodes. This observation is consistent with the Examiner's interpretation of the Norris reference. If the nozzles are parallel to the plate electrodes, then they are clearly at an angle, in this case a right angle, other than normal to the surface of the plate electrodes." [Emphasis added.]

The Examiner's Answer provides the first interpretation, by the Examiner, of "an angle." The Office Action dated June 4, 2002, for example, states as follows:

"Mori is taken as in the previous office action and Norris is taken as above. As previously pointed out, Mori is directed to a process of electroplating a metal onto a substrate. The substrate may be located to form a seal as recited in instant claim 2. See, for example, figures 3 and 6. The electrolyte is injected in a plurality of directions, one of which is perpendicular to the substrate as recited in instant claims 24 and 31. Note the direction of the flow shown in figure 6. It would have been obvious to have utilized additional nozzles in Mori as shown by Norris because increased solution flow would have been obtained and the plating pattern would have been better controlled as taught by Norris."

The interpretation of the word "angle," newly provided by the Examiner is a new ground of rejection. Appellant has not previously been aware that the Examiner has taken "angle" to include "parallel" or "an angle of 0°." Appellant may have amended the claim to overcome this rejection, should Appellant have been aware of the Examiner's interpretation. As such, Appellant has thus not been given a fair opportunity to react to the rejection of the Examiner based on the

Examiner's interpretation of "angle." See *In Re Kronig*, 539 F.2d 1300, 13002-03, 190 USPQ 425, 426-27. (CCPA 1976).

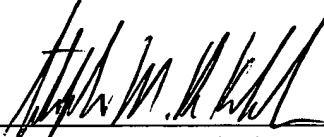
Appellant, accordingly, respectfully requests that the Petition be granted to reopen prosecution after appeal.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: May 27, 2003



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